

CALENDAR ITEM

C26

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06/23/11

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WP 5301.9

B. Terry

TERMINATION AND ISSUANCE OF A RECREATIONAL PIER LEASE

LESSEES:

C. Bruce Mace and Janice Mace Remely

APPLICANT:

Francis Michael Heffernan III, Trustee of the Francis Michael Heffernan III Separate Property Trust

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 28 Moana Circle, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

10 years, beginning February 11, 2010.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$500,000.

Other:

The proposed lease contains a provision requiring the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District

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Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 9, 2002, the Commission authorized a Recreational Pier Lease with C. Bruce Mace and Janice Mace Remely. That lease will expire on March 31, 2012. On October 28, 2009, the ownership of the upland parcel transferred to Francis Michael Heffernan III and on February 11, 2010, was transferred to Francis Michael Heffernan III, Trustee of the Francis Michael Heffernan III Separate Property Trust. Applicant is now applying for a new Recreational Pier Lease.
3. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

4. **Issuance of a New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of Existing Lease: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

Issuance of a New Lease: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370, et seq.

AUTHORIZATION:

1. Authorize termination, effective February 10, 2010, of Lease No. PRC 5301.9, a Recreational Pier Lease, Issued to C. Bruce Mace and Janice Mace Remely.
2. Authorize issuance of a 10-year Recreational Pier Lease to Francis Michael Heffernan III, Trustee of the Francis Michael Heffernan III Separate Property Trust, beginning February 11, 2010, for an existing pier and two mooring buoys as shown on Exhibit A attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than \$500,000.